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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Policy and Rules Concerning the Interstate, Interexchange Marketplace	)	CC Docket No. 96-61
	)	
Implementation of Section 254(g) of the Communications Act of 1934, as amended	)	

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To: Chief, Common Carrier Bureau

OPPOSITION OF IT&E OVERSEAS, INC.

IT&E Overseas, Inc. ("IT&E"), by its attorneys and pursuant to Section 1.45 of the rules of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 1.45, respectfully submits this Opposition to the Comments of the Commonwealth of the Northern Mariana Islands ("CNMI"), filed in the above-captioned proceeding on June 16, 1997. In its Comments, the CNMI objects to certain aspects of the final rate integration plans filed by the various interexchange carriers ("IXCs") serving subscribers in the CNMI. In particular, the CNMI contends that IT&E's proposed rates for calls terminating in American Samoa violates the Commission's rule requiring rate integration. See Comments of the CNMI, at 6-8 (filed June 16, 1997). The CNMI's single objection to IT&E's final rate integration plan, however, reflects a fundamental misunderstanding of the Commission's rate integration rule and is devoid of any merit. As previously explained in IT&E's final rate integration plan, filed on June 2, 1997, and preliminary rate integration plan, filed on February 3, 1997, and reiterated herein, IT&E's proposed rates for calls terminating in American Samoa are in full conformance with the Commission's rate integration rule.[1]

[1] On September 16, 1996, IT&E filed with the Commission a Petition for Partial Reconsideration ("Petition"), requesting reconsideration of the Commission's dismissal of IT&E's request for forbearance from enforcement of the rate integration rule as applied to IT&E's

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In its preliminary rate integration plan, filed with the Commission five months ago, IT&E expressed its intent to continue offering separate, different rates for calls from Guam and the CNMI to other U.S. offshore locations such as American Samoa. See Preliminary Rate Integration Plan of IT&E, at 3 (filed Feb. 3, 1997). IT&E stated that Section 254(g) of the Communications Act of 1934, as amended, 47 U.S.C. § 254(g), and as implemented in Section 64.1701(b) of the FCC's rules, 47 C.F.R. § 64.1701(b), requires that "a provider of interstate interexchange services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State." 47 U.S.C. § 254(g) (emphasis added). Thus, the rule requiring rate integration does not prohibit IXCs from applying to all of its subscribers a uniform rate schedule containing rates that vary based on the location to which a call is terminated. Rather, the rate integration rule only prohibits IXCs from charging rates that vary significantly based on the geographic location of a subscriber. Consequently, IT&E concluded in its preliminary rate integration plan that its proposal to continue charging all of its subscribers separate, different rates for calls terminating in U.S. offshore locations

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provision of services originating from Guam and the CNMI. In its final rate integration plan, IT&E requested the Commission to stay enforcement of its rate integration rule, as applied to IT&E, pending Commission action on IT&E's Petition. To date, the Commission has not acted on IT&E's Petition.

In addition, GTE Service Corporation ("GTE") filed a Motion for Partial Stay or Request for Extension ("Motion") on June 17, 1997, requesting a stay of the rate integration rule, as applied to GTE, until Commission action on GTE's pending Petition for Reconsideration and Clarification of the rate integration rule. In its motion, GTE, among other things, argued that by requiring GTE and its affiliates to integrate their rates, "the Commission has effectively ordered MTC [GTE's affiliate providing local exchange and interexchange services to subscribers in the CNMI] to charge non-compensatory rates, thereby incurring significant unrecoverable losses." Motion of GTE, at 17 (filed June 17, 1997).

Furthermore, Sprint filed an Opposition to the CNMI's Comments on June 26, 1997. In its Opposition, Sprint argued that the Commission's rate integration rule does not require Sprint to extend its national Dial-1 rate structure to calls originating from Guam and the CNMI because the rate integration rule was not intended to require "carriers operating in a competitive market to provide service at noncompensatory rates." Opposition of Sprint, at 8 (filed June 26, 1997).

Although IT&E's situation is distinguishable from those of GTE and Sprint, IT&E agrees that blind adherence to the rate integration rule without regard to the unique circumstances of Guam and the CNMI will result in below-cost, noncompensatory rates.

such as American Samoa fully complies with the rate integration rule because such rates apply uniformly to all of IT&E's subscribers without regard to their geographic location. Id. IT&E received no objections from either the Commission or any other interested party regarding any aspect of IT&E's preliminary rate integration plan.

IT&E subsequently filed its final rate integration plan reiterating its intent to continue charging all of its subscribers separate, different rates for calls terminating in American Samoa.[2] Although the CNMI now objects to such rates, it fails to explain how IT&E's rates for calls terminating in American Samoa violates the FCC's rate integration rule. The CNMI merely states that such rates are "not proportionate" and would require CNMI subscribers calling to American Samoa to pay "higher, non-integrated rates based on a completely different methodology." Comments of the CNMI, at 8. The CNMI fails, however, to respond to or even mention IT&E's justification for offering such rates. Moreover, the CNMI fails to provide any basis in law or policy to support the fallacious premise that the FCC's rate integration rule requires any more than the establishment of a uniform rate structure that applies equally to all of an IXC's subscribers regardless of their geographic location. In the absence of such a showing, IT&E's proposed rates, which are applied uniformly to all of its subscribers, must be presumed lawful. See Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, 85 FCC2d 1, 32-33 (1980) (declaring that tariffs of nondominant carriers are "presumptively lawful").

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[2] In its final rate integration plan, filed on June 2, 1997, AT&T Corp. ("AT&T") noted that American Samoa has declined to participate in the North American Numbering Plan ("NANP"). Consequently, AT&T stated that it would not be able to integrate American Samoa into its domestic rate structure until American Samoa participates in the NANP. See Letter from E.E. Estey, AT&T, to R.M. Keeney, Chief, FCC Common Carrier Bureau, at 2 n.3 (June 2, 1997).

Based on the foregoing, IT&E urges the Commission to affirm that IT&E's final rate integration plan fully complies with the rate integration rule and to dismiss or deny the CNMI's specific objection to IT&E's proposed rates for calls terminating in American Samoa.

Respectfully submitted,

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